



REPORT TO THE NORTH CAROLINA GENERAL ASSEMBLY

MEDICAID RECIPIENT APPEAL PROCESS

**PRESENTED BY
OFFICE OF ADMINISTRATIVE HEARINGS (OAH)
DEPARTMENT OF HEALTH AND HUMAN SERVICES (DHHS)**

APRIL 14, 2010

OVERVIEW OF RECIPIENT APPEAL PROCESS

- C.F.R. § 431.206 requires that the State inform every applicant or recipient of an adverse determination in writing—
 - (1) of his right to a hearing;
 - (2) of the method by which he may obtain a hearing; and
 - (3) that he may represent himself or use legal counsel, a relative, a friend, or other spokesman.
- S.L. 2008-118 s. 3.13(a)(2) effective July 01, 2008 requires written notification to the applicant or recipient, and the provider, if applicable, of the determination and of the applicant's or recipient's right to appeal the determination 30 days before the effective date of an adverse determination.
- S.L. 2009-526, s. 2. effective August 26, 2009 amends the effective date from 30 days to 10 days.

OVERVIEW OF RECIPIENT APPEAL PROCESS

- Written notice must be provided by DHHS to the recipient/applicant, the legal representative, and service provider.
- The notice includes a clear statement of the decision, citation that supports the decision made, and appeal rights for a fair and formal hearing before OAH.
- Effective October 01, 2008, S.L. 2008-118, s. 3.13 eliminated the Medicaid *informal* appeal process or reconsideration review before the DHHS Hearing Office.
- A *fair and formal hearing* before OAH is required for adverse decisions made about a Medicaid recipient's or applicant's medical, dental, or behavioral health service requests.

OVERVIEW OF RECIPIENT APPEAL PROCESS

- S.L. 2008-118 s. 3.13(a) and (b) effective July 01, 2008 specified deadlines throughout the formal hearing process that must be met by OAH and DHHS/DMA.
 - The recipient has 30 days from the date the notice is mailed to file an appeal with OAH.
 - Immediate notification by OAH to the Mediation Network that a request for appeal has been received is required.
 - The Network has 25 days from the date the appeal is filed with OAH to complete the mediation.
 - OAH has 45 days from the date the appeal is filed (and that includes the 25 days for mediation) to schedule and hear the case.
 - OAH must issue decision and forward case to DHHS within 20 days of conclusion of hearing.
 - DHHS has 20 days from the date the OAH decision is received by DHHS to make the final agency decision and mail it to the petitioners.
 - The administrative law judge may allow brief extensions of the time limits for good cause and to ensure the record is complete.
 - The recipient has 30 days from the date the final agency decision is mailed to appeal the decision to Superior Court.

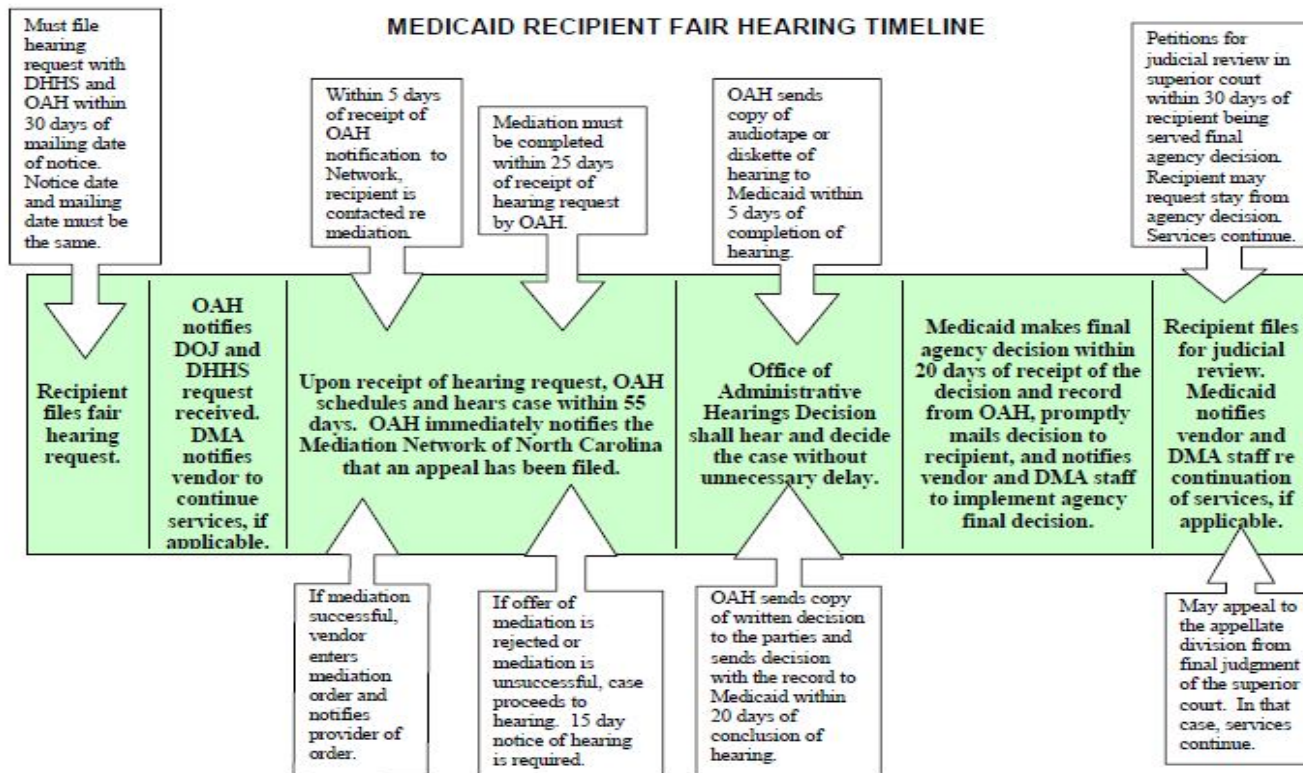
OVERVIEW OF RECIPIENT APPEAL PROCESS

- Effective August 26, 2009, Session Law 2009-526, s. 2.(a)(b) made clarifying changes to S.L. 2008-118, s. 3.13(b).
 - Changed 30 day effective date to 10 days.
 - Clarified reinstatement of services upon timely filing of appeal request.
 - Added 10 days (45 to 55) for OAH to schedule and hear the case.
 - Stated brief extensions along the timeline could be granted by the administrative law judge for good cause and to ensure the record is complete.
 - Specified that hearings could be held telephonically, or by video conferencing, or in person (in Wake County and, for good cause, in the recipient's county of residence).
 - Allowed continuances on the day of the hearing for good cause and allowed hearings to be dismissed if the petitioner failed to make an appearance when the hearing was properly noticed.

OVERVIEW OF RECIPIENT APPEAL PROCESS

- Clarified that a hearing would not be held unless the mediation was unsuccessful, the mediation offer was rejected, or the petitioner failed to appear for a scheduled mediation.
- Specified that the hearing would be dismissed if the parties resolved the issues in mediation.
- Stated the mediator must notify OAH and DHHS of mediation results within 24 hours of completion of the mediation.
- Added that new evidence could be submitted and that DHHS had 15-30 days to review the evidence.
- Specified the hearing would determine if DHHS:
 - Exceeded its authority or jurisdiction
 - Acted erroneously
 - Failed to use proper procedure
 - Acted arbitrarily or capriciously or
 - Failed to act as required by law or rule

OVERVIEW OF RECIPIENT APPEAL PROCESS



Appeal Timeline
09/10/08

ACTIVITIES AND PROGRESS TO IMPLEMENT S.L. 2008-118, s. 3.13 and S.L. 2009-256, s. 2.(A) AND (B)

- Developed a DHHS electronic document management system.
- Developed DHHS revised due process notices and appeal request form. (Additional modifications will be made).
- Developed an OAH revised Notice of Hearing.
- Executed Memorandum of Agreement between OAH and DHHS on 09/01/09. (Required by the Centers for Medicare and Medicaid Services in order for DHHS to draw down federal monies for the hearing process).
- Developed internal policies and procedures by OAH, DHHS, and the Mediation Network of North Carolina to coordinate responsibilities.

ACTIVITIES AND PROGRESS TO IMPLEMENT S.L. 2008-118, s. 3.13 and S.L. 2009-256,s. 2.(A) AND (B)

- Executed amendments to DHHS vendor contracts to implement the new hearing process.
- Developed training and conducted presentations by DHHS and the Carolina Dispute Settlement Center for DHHS and vendors.
- Developed and provided training by OAH for mediators in conjunction with the Carolina Dispute Settlement Center and DHHS.
- Conducted ongoing DHHS training for providers, recipients, vendors, and other DHHS agencies.
- Developed an OAH Medicaid recipient appeals page found on the OAH website specified below.

<http://www.oah.state.nc.us/hearings/medicaid.html>

- Developing a DHHS Medicaid prior approval page and to be found on the DHHS website specified below.

<http://www.dhhs.state.nc.us/dma/>

ANALYSIS OF MEDICAID RECIPIENT APPEAL PROCESS

- Compliance with statutory standards set forth in S.L. 2008-118, s. 3.13 and Session Law 2009-526, s. 2.(a)(b) were met for the period October 01, 2008-March 31, 2010, is an indication of effecting legislative intent.

ANALYSIS OF MEDICAID RECIPIENT APPEAL PROCESS

■ **Effectiveness of the Appeal Process (Maintenance of Services – MOS)**

- If adverse action is taken on a **continuing** request for services and a hearing request is submitted within 30 days of the date the notice was mailed, the recipient is entitled to receive services during the pendency of the appeal in compliance with S.L. 2009-526, s. 1.1(a)(3). The service will be provided in accordance with federal and state requirements.
- With the new hearing process and utilization of the document management system, an estimated \$25 m has been saved for the period of October 1, 2008 - March 31, 2010.

ANALYSIS OF MEDICAID RECIPIENT APPEAL PROCESS

- An additional way to determine **effectiveness** of the process is by analyzing the number of requests for hearings resolved through mediations and hearings for the period July 01, 2009-March 31, 2010.
 - Resolved successfully through mediation – 83%
 - Referred for fair and formal hearing before OAH – 17%

RECOMMENDATIONS FOR RECIPIENT APPEAL PROCESS

- Assess OAH and DHHS/DMA current staffing needs to insure that appropriate numbers of staff at all levels of the hearing process are in place.
- Develop policies regarding how hearings fraudulently requested by providers on behalf of recipients and applicants without their knowledge are to be handled.
- Monitor the appeals process and analyze data to assess progress towards objectives, cost effectiveness, and efficiency of the revised process.
- Continue the appeals process as set forth in S.L. 2008-118, s. 3.13 and S.L. 2009-526, s. 2.(a) and (b).